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Report of the Secretary-General

ANNEX

Submission from Human Rights Advocates
dated February 1998

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WORKING GROUP FOR MIGRANT WORKERS - TARGET AREAS & SOLUTIONS
Working Paper submitted by Human Rights Advocates, an NGO with consultative status, Category II

1. The number of migrant workers around the world has steadily increased over the past decade due to the impact of global economic restructuring, escalating poverty, and violent conflict.[1] These individuals, in search of economic opportunities, face abuse and disdain from their host countries. This paper will discuss two of the varied problems facing migrant workers worldwide. The first problem, border patrol violations, arises out of human rights violations by government officials. The second problem, abuse of migrant women, arises in part out of society's worldwide stereotype of women. The first half of this paper documents human rights violations in these areas and proposes possible solutions. The second half of this paper proposes what mechanisms this Working Group should utilize to most effectively combat the abuse of migrant workers on a global scale.

I. HUMAN RIGHTS VIOLATIONS AGAINST MIGRANT WORKERS WORLD WIDE

A. BORDER PATROL VIOLATIONS

2. Migrant Workers crossing borders worldwide are denied the basic rights to life and subjected to degrading treatment. HRA has submitted reports on these violations for many years, and this paper will update past reports.[2] Because of the sheer size of migration between Mexico and the United States, these reports focus on the problems along the 2,000-mile border between the two countries. However, these problems are intended as examples of practices worldwide.

1. Abuse by Border Patrol Agents

3. The United States INS (Immigration and Naturalization Service) shooting policy allows agents to shoot at illegal border crossers in the following situations: self-defense, in defense of another officer, or in the defense of an innocent third party. These guidelines fall within internationally accepted norms aimed at protecting borders. However, guidelines implemented by

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[1] "Gender and Migration", Network News, Fall 1997.

[2] Written statement submitted by Human Rights Advocates on Measures to Improve the Situation and Ensure the Human Rights and Dignity of All Migrant Workers, E/CN.4/1997/NGO/54,¶9 (17 March 1997).

governments worldwide are often dismissed, violations are prevalent, and violators are rarely or leniently punished.[3]

4. In 1994, a 22-year-old Brownsville resident was shot in the leg by border patrol agents who claimed he was smuggling immigrants. It was later discovered he was merely hunting.[4] In a similar incident, an 18-year-old goat herder out hunting rabbits with a 70-year-old .22 caliber shotgun was shot and killed by Marines (working in conjunction with the border patrol). It took nearly forty minutes for government officials to seek medical attention for the boy.[5]

5. Similarly, in June of 1997, a Chinese man believed to be a Chinese citizen and one of 41 Chinese migrants hoping to get to western Europe, was shot and killed by Lithuanian officials.[6]

2. Policies Leading to Increased Border Patrol Violations

6. Many countries have responded to situations of increased illegal migration by sending additional government agents to patrol the border. With a rush to place more border patrol agents and military troops at the border, these agents are receiving less training and are less closely scrutinized before being hired. The lack of training only increases the likelihood of agents committing more human rights violations against migrants crossing the border and a higher potential for border deaths. With more agents along borders, the possibilities of confrontation alone are significantly increased.[7]

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[3] Americas Watch, Brutality Unchecked: Human Rights Abuses Along the Border with Mexico, 1, 4 (1992).

[4] Roberto Gonzales, "In the Continuing Saga of Border Patrol Abuses, Violent Confrontation is on the Rise", Civil Wrongs, February 1996.

[5] Jeff Barnett, "Congress to Call Hearings on Border Shooting", http://www.nmsu.edu, August 1997.

[6] "Illegal Migrant Shot and Killed by Lithuanian Police", Deutsche Presse-Argentur, June 19, 1997.

[7] Martin Kasindorf, "Crackdown Begins Along Texas Border", USA Today, August 25, 1997.

7. In the United States, the number of border patrol agents doubled between 1993 and 1997.[8] In 1997, President Clinton unveiled a plan to send an additional 1,000 new border patrol agents and 348 new inspector for ports of entry along the United States-Mexico border.[9] The budget for the Immigration and Naturalization Service (INS) has more than doubled in the past five years. A General Accounting Office report revealed that the INS budget topped off at $3.1 Billion in 1997, up from $1.5 Billion in 1993.[10]

8. Mexico has also increased its military presence along the Mexico-Guatemala border in an effort to curb the wave of Central and South Americans trying to make their way to the United States.[11] The increase in military presence has increased the number of human rights abuses along the Mexico-Guatemala border.[12] In 1997, a Guatemalan man en route to visit his brother in Mexico City was stopped by Mexican immigration officials, pistol-whipped, and robbed of his clothes and money.[13] A Salvadoran citizen who made it through Mexico was stopped in Ciudad Juarez along the U.S.-Mexico border, detained for three days, fed only once, and cursed before being "dumped" in Guatemala.[14]

9. Radical steps to patrol the South African border are also planned to stop the influx of migrants from neighboring countries. South Africa has experienced a flood of illegal African migrants fleeing economic and social instability. All of this in response to the more than 180,000

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[8] Gary Martin, "INS Plans Changes to Trim Civil Rights Complaints", San Antonio Express-News, December 23, 1997.

[9] "U.S. Injects Fresh Funds to Fight Illegal Immigration", Agence France-Presse, January 14, 1997.

[10] Gary Martin, "INS Plans Changes to Trim Civil Rights Complaints", San Antonio Express-News, December 23, 1997.

[11] Hayes Ferguson, "Mexico Tightening Southern Border", Rocky Mountain News, March 3, 1996.

[12] Id.

[13] Hayes Ferguson, "Mexico Gets Tough on Southern Border", The New Orleans Times-Picayune, February 18, 1996.

[14] Id.

migrants who were repatriated to Mozambique, Zimbabwe, and Ethiopia in 1997.[15]

10. Along the Thai-Burma border, the Shan, long considered a source of seasonal labor, are being turned away and therefore forced to camp out along the border with Burmese refugees.[16] In an effort to end these camps and the waves of people entering, Thai officials have pressured some groups into leaving. The Shan are left defenseless as Thai officials "mysteriously" disappear just before Burmese authorities attack these refugee camps.[17]

3. Environmental Deaths

11. With increased numbers of government officials patrolling the borders, migrants are forced to take desperate risks in seeking out more dangerous routes and methods of entry. Since these deaths, also known as "environmental deaths", occur one or two at a time, they are rarely noticed. However, these more dangerous alternatives are an increasing phenomenon worldwide.

12. In August of 1996, near Douglas, Arizona, a group of Mexican citizens were trying to enter the United States through an underground drainage pipe that runs from Mexico to the United States when a storm sent a torrent of rainwater through the pipe, killing five men and one woman.[18] That same year, 19 immigrants died of heat stroke and other exposure-related causes while trying to evade a border patrol checkpoint in Kennedy County, Texas.[19] In a separate incident, four Mexican women died of heat exhaustion and dehydration near Falfurrias in South Texas.[20] Two weeks later, a fifth woman was found. These five women were 15 miles from a

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[15] Mary Braid, "South Africans Discover Xenophobia as Foreigners Flood in Looking for Work", The Independent-London, August 23, 1997.

[16] Richard Ryscavage, "Burmese Refugees in Thailand", House Committee on International Relations, April 16, 1997.

[17] Elizabeth Moorthy, "With the Karen on the Thai Border", The Asian Wall Street Journal, March 5, 1996.

[18] Sam Howe Verhoek, "Silent Deaths Rise as Migrants Cross Mexico Border", New York Times News Service, August 24, 1997.

[19] Id.

[20] Pauline Arrillaga, "Drought Takes Toll on Illegal Immigrants", Associated Press, June 7, 1997.

border patrol checkpoint.[21]

13. A recent University of Houston report estimated that 1,185 migrants died between 1994 and 1997 as they attempted to cross the border or evade border patrol checkpoints along the 2,000 mile U.S.-Mexico border.[22]

14. This wave of environmental deaths is not limited to the United States. In South Africa, it was discovered that a pride of lions were responsible for eating a Mozambican man trying to cross illegally into South Africa.[23] The lions were believed to be responsible for killing three other Mozambicans. In 1997, 11 people were eaten by wild animals trying to enter South Africa, including a woman and her two-year-old son.[24] There are also reports of Zimbabweans trying to swim the Limpopo River being eaten by crocodiles.[25]

15. Similarly, in 1997, Polish guards patrolling the 75-mile border with Lithuania, caught an Afghan family of six huddled in the bushes among a heavy blanket of snow.[26] On the same day, other guards stumbled upon a path that led to the discovery of 41 abandoned migrants from Bangladesh, Nepal, Pakistan, and Sri Lanka en route to Western Europe.[27] Thousands of Kurds, Bulgarian, and Turkish Muslims and Romanian gypsies are camped in garbage dumps near the Neisse River awaiting a chance to wade across into Germany.[28]

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[21] Rad Sallee, "The Border's Tragic Toll", Houston Chronicle, August 11, 1997.

[22] "Study Links Border Patrol Enforcement with Migrant Deaths", National Network for Immigrant and Refugee Rights, August 13, 1997.

[23] Mary Braid, "South Africans Discover Xenophobia as Foreigners Flood in Looking for Work", The Independent-London, August 23, 1997.

[24] Id.

[25] Id.

[26] Neil Bowdler, "Leaking Frontier Alarms the EU as Smuggles Migrants Seek Gateway to the West", The Guardian, November 15, 1997.

[27] Id.

[28] Id.

4. Physical Abuse and Humiliation by Border Patrol Agents

16. Migrants crossing border not only encounter these dangerous conditions, but are often the target of cruel and degrading treatment. Beatings and other forms of physical and humiliating abuse are not uncommon. These types of abuses are aimed at particular groups, and result in the victimization of nationals and non-nationals alike.

17. In January of 1996, along the Texas border, Eloy Trujillo, a 35-year-old U.S. born American citizen who had lived most of his life in Brownsville was followed by border patrol agents, ordered out of his car, beaten, and handcuffed to a fence as his 86-year-old grandmother watched. He was so badly whipped that he required half a dozen stitches and hospital treatment before being officially arrested.[29] Later in 1996, a 21-year-old beauty queen serving as a good-will ambassador was detained by border patrol agents who lifted her skirt, felt her belly, and accused her of entering the United States to have a baby.[30] In a 1993 case, a female Mexican illegal immigrant claimed she was raped in a van by a U.S. Border Patrol agent. The agent was first charge with rape and kidnaping, but the charges were later dropped in exchange for a no contest plea to a much lesser offense of "attempting transporting of persons for immoral purposes."[31]

18. In 1996, two Israeli border policemen beat six detained Palestinian laborers who illegally crossed into Israel to work.[32] That same month, there were reports of 11 Palestinian being beaten and physically harassed by border policemen. No official complaints were lodged for fear of retaliation.[33]

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[29] Robert Gonzales. "In the Continuing Saga of Border patrol Abuses, Violent Confrontation is on the Rise", Civil Wrongs, February 1996.

[30] Id.

[31] Nancy Nusser, "California Beating Incident Provokes Mexican Outcry", Cox News Service, April 11, 1996.

[32] Ina Friedman, "Fact of Life: Acts of Brutality by Israel's Border Police, as Caught on Tape, are Nothing New", Baltimore Jewish Times, November 29, 1996.

[33] Id.

5. Attacks on Migrants by Private Persons

19. The publicity caused by increases in the numbers of border patrol agents along borders have also produced strong xenophobic feelings, strong animosity, and vigilante groups. This too increases the likelihood of migrant worker abuses.

20. In Southern California, a group known as "Bob's Boys" roam eastern San Diego County armed with semi-automatic rifles looking for migrants entering the United States. Using violence if necessary, the vigilantes hold the illegal migrants at gunpoint until border patrol agents arrive.[34] The border patrol is aware of these vigilante groups and has done little to discourage such groups despite their increased numbers.[35]

21. In South Africa there are experiences with similar xenophobic sentiment. As street vendors from all over Africa scattered for cover, a trader from Senegal was beaten with bricks by South African street sellers in August of 1997. It was the second attack on a foreign/migrant street vendors in less than a week.[36]

22. In Israel, it was discovered that Israeli border police had printed T-shirts depicting a fervently Orthodox Jew and a Palestinian tied to a tree. The T-shirts were intended to allude to the guards' toughness where the tree represented the guards.[37]

23. Given that these human rights violations exist worldwide, it is imperative that responsive action be taken immediately to address them.

B. RECOMMENDATIONS FOR ADDRESSING BORDER PATROL VIOLATIONS

24. It is imperative that host/receiving and sending countries take affirmative steps to protect the rights of migrant workers and their families. By taking the appropriate steps, it will held

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[34] John Hisock, "Vigilantes Ride Out to Stem Human Tide from Mexico", The Daily Telegraph-London, May 19, 1997

[35] Id.

[36] Mary Braid, "South Africans Discover Xenophobia as Foreigners Flood in Looking for Work", The Independent-London, August 23, 1997.

[37] Binyamin L. Jolovsky, "Israel's New Embattled Minority", The Washington Times, December 26, 1996.

reduce border patrol misconduct, human rights violations against migrant workers and their families, and possibly reduce the number of border deaths

1. Educational Solutions

25. Efforts to improve situations along borders must include increased and continuous training and education for border patrol agents rather than increased presence. The education should include an intense and structured curriculum that includes areas of study in Constitutional laws, substantive human rights laws and violations, and the Universal Bill of Human Rights.

26. Cultural and language training should also be required curriculum as it may increase the likelihood of communication (and decrease the likelihood of confrontation) between migrant workers and border patrol agents. Misunderstandings and miscommunication would decrease as government agents along borders are better equipped to verbally communicate with migrants. Border Patrol agents should possess knowledge of cultural, ethnic, and language characteristics of the most prominent groups so as to aid them and not lose them in the shuffle.

2. Social Solutions

27. Sending and Host countries must work together to provide and endorse public service announcements in the appropriate language along their borders. These joint-effort public service announcements should be aimed at curbing the number of environmental deaths experienced as migrants attempt to evade border patrol agents and/or border patrol checkpoints by choosing more dangerous routes and methods of entry. This would be an educational warning system broadcast through various media forms (i.e. radio, television, newspaper, etc.) aimed at saving lives and not merely curbing migration numbers.

28. One such program already exists along the South Texan-Reynosa, Mexico border. Operation "Stay Out, Stay Alive" is aimed at providing information as to recent border deaths, conditions in the Rio Grande, and warning migrants of the legal consequences for crossing into the United States illegally.[38]

3. Legal Solutions

29. A grievance procedure must be established to address border patrol violations against

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[38] Martin Kasindorf, "Crackdown Begins Along Texas Border", USA Today, August 25, 1997.

migrant workers and their families. The most effective procedure must be established as a joint effort between the host and sending countries in any given region and must include the following components:

- an established worldwide code of conduct regulating border patrol agents' behavior and conduct in confrontational and other related situations,
- civil and criminal liability (as a deterrent) within the grievance procedure that would extend beyond reprimand or dismissal of a border patrol agent for human rights violations or breach of the established code of conduct,
- a joint effort with consular offices along respective borders to aid migrant workers in processing claims of abuse,
- a guarantee of anonymity for migrant workers and their families so as to encourage meritorious complaints and reduce the fear of retaliation,
- an inquiry procedure for investigative action once a complaint has been lodged by a victim so as to decide whether criminal and/or civil action is required, and
- A compliance component by which governments of host countries can report periodically on steps taken to alleviate problems with border patrol violations against migrant workers and their families, and any progress made or solutions reached. Sending countries should also file compliance reports on efforts made to aid host countries in achieving progress.

C. DOMESTIC AND EMPLOYMENT ABUSE AGAINST WOMEN MIGRANT WORKERS

30. The following is excerpted from a report that was submitted by Human Rights Advocates in response to the Commission on Human Rights' Resolution 1997/13 in October of 1997. The International Organization for Migration estimates that there are over 50 million women in migration worldwide, and over half the immigrants to the United States are now women. Due to their marginalization both as women and as migrants, women migrants find themselves in situations in which they are vulnerable to violence and abuse. They tolerate abuses from their spouses and their employers because they are poor and afraid. They fear losing their jobs, they fear no one will believe their story, they fear losing their children.

31. Most migrant women do not know the language of the host country; many are uneducated and do not know they have rights that are being violated; many do not know where to turn for help, thus the violations go unreported. And the women continue to suffer in silence.

32. The following are the types of categories of problems facing migrant women around the world: a global social acceptance of domestic abuse; government policies of confiscating non-nationals' passports at the port of entry; migrant women's ignorance of their legal rights and lack of accessibility to social services; and lack of employment grievance procedures for sexual harassment.

D. RECOMMENDATIONS FOR ADDRESSING "VIOLENCE AGAINST MIGRANT WOMEN"

33. Many countries, including South Africa, the Philippines, and China, have established committees to attempt to solve the problems of abuse of female migrant workers through legislation.[39] Governments realizing a problem exists is the first step to finding solutions to migrant women's problems. However, drafting legislation will not solve the de facto abuse that persists even after legislation is enacted. For example, many of the countries who signed the Convention on the Elimination of All Forms of Discrimination Against Women continue to violate most of the rights enumerated therein.[40] Therefore, countries must take a holistic approach to the problem including social and legal solutions.

1. Social Solutions

a. Education and Prevention

34. Education is the best, most cost-effective measure available to increase awareness and promote intervention at various levels.

Cooperation Between Health Clinics, Legal Services, and Social Services

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[39] "U.N. - Population: Migration, Violence Against Women Top Concerns," Inter Press Service, January 30, 1997; Thalif Deen, "U.N. - Women: U.N. Launches Fund to Prevent Gender Violence," Inter Press Service, June 17, 1997.

[40] Written statement submitted by Human Rights Advocates on Measures to Improve the Situation and Ensure the Human Rights and Dignity of All Migrant Workers, E/CN.4/1997/NGO/54,¶9 (17 March 1997).

35. For the education process to succeed local health clinics, social service providers, legal services, and community colleges must collaborate to form a network accessible to women migrant workers. The woman needs assistance in all these areas to escape the abuse by her husband or her employer.

Proper Training

36. There must be a greater effort to educate all clinic staff about domestic violence among the migrant women population. Physicians and mid-level practitioners must attend the training along with other staff members. Physical exams findings, including unexplainable or inconsistent injuries, self-defense injuries, and overt signs of battering will often be discovered by this group of clinicians. Being able to chart findings and make the proper referrals is not enough; continuity of care is crucial. Practitioners should possess knowledge concerning safety plans, danger assessments, and area resources.

37. Moreover, the social/clinician workers must speak the language and understand the culture of the migrant. Cultural barriers between social workers/clinicians and women migrants prevent accurate statistics from showing the number of migrant women who are actually abused.

Global Cultural Training

38. To solve the cultural problem related to domestic abuse, all countries must have social services to educate both women and men on domestic violence. All men and women must learn that domestic violence is not acceptable in any culture. This can start as early as elementary school. All boys and girls need to learn domestic violence is wrong. A woman never "asks for it". A curriculum must be developed starting in elementary through high school where students can discuss the issues associated with domestic violence. Furthermore, Health Clinics must offer psychological counseling to men and women so both will learn how to deal with their problems in a non-violent manner.

Outreach programs

39. To further assist in solving the problem of lack of documentation and isolation of women migrant workers, it is imperative countries develop outreach programs. Outreach programs are the link between the migrant worker and the legal and social service providers that assist in

finding solutions to the abuse. Some programs in the United States can be used as a model.

40. In 1995, the Migrant Clinicians Network, in partnership with the Centers for Disease Control and Prevention (CDC), Family and Intimate Violence Prevention Team and the Lideres Campesinas, a self organized group of farm worker women who have come together to address problems in their communities, began a project to develop and evaluate training for Hispanic migrant farm worker women in the area of domestic violence education and prevention.[41]

41. In order to educate the women farm workers, Lideres Campesinas sends ex-farm workers, who are familiar with migrant farm workers lives, to the fields during the day and the labor camps in the evenings to inform workers where social services are available. Through the social services women can be treated for domestic abuse and clinicians can ask questions to discover whether the women are also being abused at work.

42. Other types of outreach programs consist of monthly one-stop clinics/conferences. Once a month the legal service or social provider in the community has a conference to address the majority of migrant workers needs such as the following: education, farm worker safety, health, legal services, and immigration.

43. Through these outreach programs the word starts to spread among women migrant workers that they have legal rights and options. Furthermore, these organizations working directly with migrant women can report violations of abuse directly to the United Nations.

b. Government Funding

44. Education cannot exist without governments funding the legal and social service programs. Governments must make women's rights a priority. For example, governments should continue or start to fund Women's Clinics where women have access to birth control and gynecological exams without charge.

c. Media Attention

45. In order to continue funding for these programs, social service providers must contact local and national media to expose to the public the violence facing migrant women. The media must rally for public support to increase pressure on legislative bodies to stop cutting funding for

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[41] Rachel Rodriguez, "Suffering in Silence: Domestic Violence and Migrant Women," Migrant Clinicians Network, April 1995.

c. Legal Cause of Action for Abuses by Employers

State/National Cause of action

51. All countries should have a legal cause of action for sex discrimination and sexual harassment (United States Title VII can be used as a model). Although it is difficult and painful for a plaintiff to win a harassment and discrimination case in the United States, the cause of action and remedy exists.

Employer Grievance Procedure

52. In addition to a legal cause of action, all employers must have a grievance procedure for all employees to explain the harassment or abuse by the employer. If employers fail to have such a procedure they should be fined according to their net worth.

53. Women's rights activists propose that it be made mandatory for organizations to have a code of conduct, to institute an inquiry with at least one woman to look into grievances, and if the accused is found guilty of the charges, to take legal action on behalf of the victim.

d. Women in management and as foreman/supervisors

54. Many migrant workers say that there needs to be more women in management/foreman positions. Women complain of men flirting with the young women in the fields. Women do not feel comfortable complaining to a man they perceive as insensitive. Furthermore, management should speak the language of the majority of the migrant workers so that the workers will be able to communicate the complaint to supervisors.

II. THE WORKING GROUP"S ROLE IN ADDRESSING THE PROBLEMS FACING MIGRANT WORKERS WORLD WIDE

55. As of December 1997, nineteen years after the United Nations General Assembly established a working group to draft a treaty on the rights of migrant workers and members of their families, only nine countries have ratified the Migrant Worker Convention: Morocco, the Phillippines, Egypt, Colombia, Cape Verde, Seychelles, Sri Lanka, Bosnia and Herzegovina, and Uganda.[43] Only two additional states, Chile and Mexico, have signed it. In essence the treaty on migrant workers is completely ineffective at present for solving the problems migrant workers

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[43]Report of the Secretary-General, "Measures to Improve the Situation and Ensure the Human Rights and Dignity of all Migrant Workers," E/CN.4/1998/75 (10 December 1997).

social and health service providers.

2. Legal Solutions

a. Drafting Human Rights Plan Addressing the Violence Against Women Migrant Workers

46. The Philippine Human Rights Plan, 1996-2000, which was prepared with the full participation of the National Commission on the Role of Filipino Women, gives special focus to women's human rights. To further the advancement of women Congress has passed 1995 Anti-Sexual Harassment Act; the Magna Carta for overseas contract workers, which seeks to institute policies for the welfare of migrant workers, their families and overseas Filipinos; and an act to provide credit assistance to women in micro and cottage businesses.

47. These plans are affirmative government methods to acknowledge and end the violence against women migrant workers.

b. Specific Practices that Must be Changed

Government Confiscation of Passports

48. Governments, such as Saudi Arabia, must overturn laws that force domestic workers from abroad to surrender their passport upon arrival. Critics say official state policy increases migrant women's vulnerability to exploitation and abuse by institutionalizing employer control over the freedom of movement of domestic workers.[42]

Employer Confiscation of Passports

49. In countries where the employer, rather than the government, confiscates the migrant worker's passport the practice must be criminalized. Countries must create a stiff penalty for any person who confiscates a migrant worker's passport. The penalty, either in the form of incarceration for several years and/or a high fine must serve as a deterrent.

50. This criminal law in conjunction with the proper local social and legal services to discover who is violating the law could assist in eliminating the practice.

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[42] Michael Sheridan, "Manilla issues sex warning to migrant maids", Sunday Times-London, February 2, 1997.

face world wide and there is no other body able to address human rights violations of migrant workers. Human Rights Advocates believes it is critical that the Working Group on Migrant Workers continue its work until the treaty goes into effect. Further, it must have authority to address specific violations.

A. THIS WORKING GROUP MUST ADDRESS THE PROBLEMS FACING MIGRANTS WORLD WIDE

56. Treaty bodies of the United Nations could address the problems of migrant workers world wide, however, due to severe backlogs in reporting mechanisms it is unrealistic that they would be able to focus on migrant worker issues specifically.[44] The International Labor Organization (ILO), the organization that traditionally would have jurisdiction over worker issues, is also unable to address violations against migrant workers. Because the process for raising complaints under the ILO structure requires that governments or employers or worker organizations raise the violations, migrant workers violations simply have not been considered. Thus, at this time the Working Group is the only body specifically addressing the human rights violations against migrants and their families.

57. After studying the success of other working groups, the following are suggestions for the Working Group on Migrant Workers to consider so that it may carry out the mandate from the Commission to "gather all relevant information from Governments, NGOs . . . on the obstacles existing to the effective and full protection of the human rights of migrants." (Commission on Human Rights Resolution 1997/15.)

B. SUGGESTED RECOMMENDATIONS FOR THE WORKING GROUP TO ACHIEVE ITS MANDATE

58. It is imperative that the Commission renew the Working Group for another term to fulfill the Commission's goal to strengthen the promotion, protection and implementation of the human rights of migrants and that it be given authority to investigate actual violations. Human Rights Advocates recommends that this Working Group look to procedures developed by the Working Groups on Enforced or Voluntary Disappearances and on Arbitrary Detention. Those working

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[44] Final Report on Enhancing the Long-Term Effectiveness of the U.N. Human Rights Treaty System, E/CN.4/1997/74.

groups developed more judgmental monitoring procedures that may be successful for effectively dealing with violations occurring along the borders of nations.

59. When the Working Group on Enforced or Involuntary Disappearances was formed in 1980 the group only had authority to: 1) examine questions relevant to enforced or involuntary disappearances; 2) seek and receive information from governments and non-government organizations (NGOs); and 3) to bear in mind the need to be able to respond effectively to information that came before it and to carry out its work with discretion.[45]

60. In 1984 the Working Group for the first time was given investigative authority to "help eliminate the practice of forced or involuntary disappearances."[46] Similar to the Working Group on Enforced or Involuntary Disappearances this Working Group needs to have the authority to take affirmative steps to eliminate human rights violations. Those affirmative steps should include an adjudicatory procedure for investigating violations of migrant workers' rights.

61. Another recommendation is for the Working Group to look at the procedure of the Rapporteur on Extrajudicial, Summary or Arbitrary Executions. That Rapporteur developed a system of reviewing individual cases which included sending a questionnaire to governments concerning the cases, and following up with letters to both the governments and the complainants.[47] The Working on Migrant Workers should consider a similar procedure to include the receiving countries in the process. The creation of such a procedure should encourage greater participation by the host countries.

62. The Working Group on Migrant Workers also should seek ways to cooperate with other Working Groups and Rapporteurs working on similar issues. For example, the Working Group on the Elimination of Violence Against Women is also looking at abuses confronted by migrant women. The Working Group on Migrant Workers should ask for input from that Working Group on how it could support its work on that problem without duplicating its work.

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[45] David Weissbrodt, "The Three "Theme" Special Rapporteurs of the UN Commission on Human Rights", 80 AM. J. INT'L., 685, 685-95 (1986).

[46] Id.

[47] Frank Newman & David Weissbrodt, International Human Rights: Law, Policy, and Process (2d ed. 1996).